

Original

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Application of:)	MM Docket No. 88-577
)	
LIBERTY PRODUCTIONS,)	File No. BPH-870831MI
A LIMITED PARTNERSHIP)	
)	
For Construction Permit)	
for an FM Broadcast Station)	
)	
Biltmore Forest,)	
North Carolina)	
)	
To: The Commission)	

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MOTION TO ENLARGE THE ISSUES

Respectfully submitted,

WILLSYR COMMUNICATIONS,
LIMITED PARTNERSHIP

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November 24, 1999

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MOTION TO ENLARGE THE ISSUES

Willsyr Communications, Limited Partnership ("Willsyr"), by its counsel, pursuant to 47 CFR 1.229, hereby submits this motion to enlarge the issues against Liberty Productions, a Limited Partnership ("Liberty"). This motion is based upon matters contained in an amendment Liberty filed with the Commission on November 10, 1999. Willsyr's motion is thus timely filed pursuant to 47 CFR 1.229 (b)(3). In support of its motion to enlarge, Willsyr raises the following issue.

Whether Liberty Made a Bad Faith and Frivolous Certification that It is Entitled to an Auction Bidding Credit

In its November 10, 1999, amendment, Liberty certified that it is entitled to a 35% bidding credit because it has no attributable media interests. According to Liberty, it is entitled to this bidding credit in spite of the fact that it entered into a loan arrangement with Cumulus Broadcasting, an owner of hundreds of radio stations, to completely fund its auction bid. Liberty makes the entirely disingenuous assertion that because it cleverly waited until after August 20, 1999 (the short-form filing deadline), to formalize the loan arrangement with Cumulus, the holdings of this media giant are not legally attributed to it.

Despite the legerdemain of Liberty in its amendment to obfuscate this matter, the Commission made it very explicit that media interests as of and after August 20 would be attributable. Liberty's certification is so contrary to a "plain English" and common sense reading of Commission rules and policy that a

substantial and material question of fact is raised as to whether it made a bad faith and frivolous certification in the hope of "snookering" the Commission into getting a 35% bidding credit.

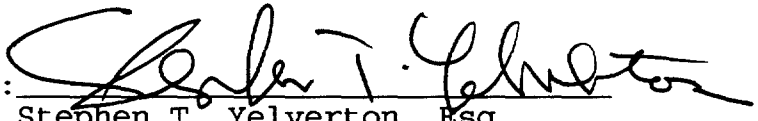
Liberty's bad faith and frivolous bidding credit certification is a continuation of a pattern of misconduct dating back to 1987. The Presiding Judge in the hearing earlier in this proceeding determined that Liberty did not and never had "reasonable assurance" of the availability of the tower site that it specified in its application filed in 1987. According to the Presiding Judge, Liberty made an insincere and disingenuous effort to obtain a tower site and then made an application certification in bad faith as to its availability. The tower site specified in Liberty's application was already leased to another applicant and Liberty had been informed of the lease and the unavailability to it of the proposed tower site. Memorandum Opinion and Order, FCC 89M-1080, paras. 3-6, 8-9, rel. April 5, 1989; Initial Decision, FCC 90D-18, findings paras. 36-40, 46-50, conclusions paras. 7-8, and n. 14; Liberty's "feeble, half-hearted" attempt to obtain a tower site "strains credulity."

Again and again, Liberty's actions and its certifications simply strain credulity. Therefore, a issue must be specified to determine whether Liberty can be relied upon to make sincere and good faith representations or certifications to the Commission and ultimately whether Liberty can be trusted to be a Commission licensee.

WHEREFORE, in view of the foregoing, a basic qualifying issue must be specified against Liberty to determine its reliability and trustworthiness to be a Commission licensee.

Respectfully submitted,

WILLSYR COMMUNICATIONS, LIMITED PARTNERSHIP

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CERTIFICATE OF SERVICE

I, Stephen T. Yelverton, an attorney at law, do hereby certify that on this 24th day of November, 1999, I have caused to be hand-delivered or mailed, U.S. Mail, first-class, postage prepaid, a copy of the foregoing "Motion to Enlarge the Issues" to the following:

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